

**CONSERVATION COMMISSION
REGULAR MEETING
REGULAR MEETING (via Teleconference)
Conducted via Zoom; Broadcast Live via Seekonk TV-9
November 15, 2021**

REGULAR MEETING

Present: K. Kearney, N. Socha, R. Emlen, A. Petronio, J. Sullivan and Conservation Agent, J. Miller

7:00 p.m. Agent Miller opened the meeting of the Seekonk Conservation Commission and reviewed meeting protocols. She stated that the meeting will be broadcast live via TV9.

RDA; Emily Way (Map 26/Lot 145)

Proposed construction of a single-family dwelling limited to grading and landscaping within jurisdictional wetland resource areas.

Applicant: David Tapalian

Representative: Caputo and Wick, Ltd.

David Bray, Caputo and Wick, Ltd. Represented the applicant and summarized the project for a proposed single-family dwelling with no grading and landscaping inside 50' including a drainage easement in the back for stormwater. The project includes a boulder wall, fencing, and grading only inside 100'. The boulder retaining wall will hold 3 feet of material up against it.

Erosion controls to be pulled back 2 feet onto the drainage easement; the boulder wall will be 3 feet off the drainage easement. It was discussed that the proposed split rail ends and transitions to boulder wall, leaving no place to attach wetland placards. Revised plan to be submitted with 4x4 posts set at bottom of boulder wall (at erosion controls) at 25' intervals to attach placards

R. Emlen made a motion to approve a Negative 3, that the work described in the request is within the buffer zone as defined in the regulations, but will not alter an area subject to protection under the Wetlands Protection Act. Therefore, said work does not require the filing of a Notice of Intent subject to the conditions:

If needed, prior to ground disturbing activities, erosion controls must be installed as indicated on the approved plan and inspected by the Conservation Agent, and shall be left in place until the disturbed soil has been stabilized with grass that has grown to a "mowable" height and density.

Seconded by A. Petronio. Motion passed unanimously.

**Roll Call Vote: 5-0-0 K. Kearney, N. Socha, R. Emlen, A. Petronio, J. Sullivan – in favor.
There is a 10-day appeal period.**

RDA; 146 Brown Ave (Map 25/Lot 129)

Proposed single-family dwelling, limited to hand removal of debris and split-rail fence within jurisdictional wetland resource areas.

Applicant: Marcel Trepanier

Representative: Oakhill Engineering

Mark Mariano, Oakhill Engineering represented the applicant for a proposed single-family dwelling with grading and landscaping only inside 100'. The wetland line has been flagged. He noted an older existing structure (old barn from 1930's) is located within the 50' No Structure (the barn pre-dates by-law restricting structures inside 50'). The fence line was discussed; post at toe of slope with flare end. There are felled trees, cut logs and other yard debris are piled into wetlands (as noted on plan); Permit to be conditioned that proposed hand removal take place prior to installation of erosion controls and split rail fence.

K. Kearney made a motion to approve a Negative 3, that the work described in the request is within the buffer zone as defined in the regulations, but will not alter an area subject to protection under the Wetlands Protection Act. Therefore, said work does not require the filing of a Notice of Intent subject to the conditions:

Hand removal of debris take place prior to installation of erosion controls and split rail fence as modified, erosion controls must be installed as indicated on the approved plan and inspected by the Conservation Agent, and shall be left in place until the disturbed soil has been stabilized with grass that has grown to a "mowable" height and density.

Seconded by A. Petronio. Motion passed unanimously.

Roll Call Vote: 5-0-0 K. Kearney, N. Socha, R. Emlen, A. Petronio, J. Sullivan – in favor. There is a 10-day appeal period.

RDA; 156 Brown Ave (Map 25/Lot 329)

Proposed single-family dwelling, limited to hand removal of debris and split-rail fence within jurisdictional wetland resource areas.

Applicant: Marcel Trepanier

Representative: Oakhill Engineering

Mark Mariano, Oakhill Engineering represented the applicant for a proposed single-family dwelling with grading and landscaping only inside 100'. The wetland line has been flagged. A split-rail fence is proposed at the 50' buffer line to delineate no further disturbance behind it; the property is currently mowed up to that point. It was more appropriate to put the fence at the 50' because of the steep slope. A. Petronio noted that this fence does not marry into the filing for 146 Brown Ave. The Commission discussed angling the fence to be continuous with the neighboring fence at 146 Brown Ave.'

Agent Miller expressed concern for having a fence across a Water Dept. easement. It was discussed the Plan is to be revised to remove the section of the split rail fence in Water Dept easement to be sure not to jeopardize water main; boulders are to replace the fence across the 15' easement with posts on either side of the easement with placards. The remainder of the fence will have placards on the end posts and every third post in between. Orders will be conditioned that work taking place inside the fence will occur first (hand removal of debris), installation of the fence, then the erosion controls will be installed

A. Petronio made a motion to approve a Negative 3, that the work described in the request is within the buffer zone as defined in the regulations, but will not alter an area subject to protection under the Wetlands Protection Act. Therefore, said work does not require the filing of a Notice of Intent subject to the conditions:

Split-rail fence at the 25' to connect to abutting property fence; installation of boulders over the water easement, hand removal of debris prior to installation of erosion controls; erosion controls must be installed as indicated on the approved plan and inspected by the Conservation Agent, and shall be left in place until the disturbed soil has been stabilized with grass that has grown to a "mowable" height and density.

Seconded by K. Kearney. Motion passed unanimously.

Roll Call Vote: 5-0-0 K. Kearney, N. Socha, R. Emlen, A. Petronio, J. Sullivan – in favor. There is a 10-day appeal period.

RDA; 32 Arcade Ave (Map 21/Lot 31)

Proposed new gas service connection within jurisdictional wetland resource areas.

Applicant: John Chester

John Chester, 32 Arcade Ave was present. Agent Miller explained the filing is for a proposed new residential gas connection, requiring ground disturbance w/in 100' of wetland edge (Turner Reservoir). Previously Columbia Gas would send representation (on behalf of the applicants) for new gas connections or major maintenance; EverSource took over Columbia Gas and have indicated they will no longer send that representation. Agent Miller stated that the project will require opening of the roadway and will likely be done in one day; thus, erosion controls are only needed if work is done in rainy weather. It was discussed the work consists of reconnecting an existing inactive gas line. *Note plan was modified to show erosion controls installed at edge of roadway (between Turner Reservoir and roadway) for 25' in either direction (unless all work will be limited to asphalt and completed in one day with no rain forecasted).*

Adam Petronio made a motion to approve a Negative 3, that the work described in the request is within the buffer zone as defined in the regulations, but will not alter an area subject to protection under the Wetlands Protection Act. Therefore, said work does not require the filing of a Notice of Intent subject to the conditions:

Prior to ground disturbing activities, erosion controls installed at edge of roadway (between Turner Reservoir and roadway) for 25' in either direction (unless all work will be limited to asphalt and completed in one day with no rain forecasted), erosion controls must be installed as indicated on the approved plan and inspected by the Conservation Agent, and shall be left in place until the disturbed soil has been stabilized with grass that has grown to a "mowable" height and density.

Seconded by N. Socha. Motion passed unanimously.

**Roll Call Vote: 5-0-0 K. Kearney, N. Socha, R. Emlen, A. Petronio, J. Sullivan – in favor.
There is a 10-day appeal period.**

COC Requests:

•SE69-0865; 171 Greenwood Avenue

Applicant: John Devaney

John Devaney, applicant expressed concern with a steel fence on an abutting property (shared field with Nunes') which appeared after his wooden "pasture" fence was conditioned in his Orders of Conditions. Agent Miller replied that typically fences are set at the 25' Mr. Devaney's fence is set at the property line. The metal fence is not on Mr. Devaney's property; it is a violation and will have to be removed. It is a separate enforcement issue separate from this COC this evening. It was discussed that placards need to be placed on the wooden fence. Ms. Miller noted that in reviewing the approved site plan vs as-built, the biggest discrepancy is boulder retaining wall, which is outside 50', and given the slope makes sense. She stated that the area behind fence (abutting property) is a "no disturb" and should not maintained (currently mowed and used for pasture); she recommended a discussion with the abutting property owner.

**N. Socha made a motion for Complete Certification for SE69-0865; 171 Greenwood Avenue,
A. Petronio seconded.**

Roll Call Vote: 5-0-0 K. Kearney, N. Socha, R. Emlen, A. Petronio, J. Sullivan – in favor.

Public Hearing:

NOI #SE69-0923; Anna Ct, 59 (Map 21/Lot 298)

Proposed restoration of a jurisdictional wetland resource area.

Applicant: Jared & Linda Minieri

Representative: Ecosystem Solutions Inc.

Continued from October 18, 2021.

Continued to December 13, 2021.

Agent Miller explained this filing is for proposed restoration of a jurisdictional wetland resource area and associated buffer zone (in response to a Notice of Violation).

Bruce Hagerman, Ecosystem Solutions, Inc. represented the applicants. He stated the issue started with removal of 3 maple trees on the property, and the removal and placement of brush associated with removal of the trees. This plan proposes tree restoration, brush removal, and seeding with a wetlands seed mix. Half way through the restoration area, 6 Spice Bushes are proposed at the edge where native wetland shrubs were. In addition, 6 Evergreen wetland species are proposed toward the property line. They have also requested a variance for a retaining wall which serves as a clear demarcation between the existing lawn and the wetland resource area. The existing edge of lawn has a walkway and staircase that will be shored up to help with sediment issues and prevent sediment from entering the wetland. Mr. Hagerman stated they additionally are proposing a gateway/passageway within the split-rail fence for maintenance for proposed invasive control (wide enough for foot traffic).

Ms. Kearney stated the proposed gate is unacceptable. This is an enforcement issue where there has been an impact. It was noted that there was no gate on the previous plan. Mr. Emlen commented that “no trespass” means no trespass, and a gate is not needed. Mr. Socha stated any invasive control must be run by the Conservation Agent as well as any type of maintenance to the retaining wall.

Agent Miller stated a licensed applicator would be required for invasive control. Any maintenance can be accessed by stepping over the split-rail fence; the split-rail fence is designed to allow passage of wildlife and provide a barrier to human trespass and mowers/equipment. She noted that there are still steps still on the end of the retaining wall if stepping over the fence is not desired. The Commission made it clear at previous hearings; that is why the gate was eliminated from the last version of the plan (Version 4) and shown as a continuous fence. Ms. Miller noted that we are still lacking the detail for the retaining wall on Version 5 which is important because this filing requires a variance.

Mr. Hagerman replied that one of the key holdups for the wall detail is that surveyors and engineers are currently hard pressed, and the time constraint for getting the details is out of his hands. Agent Miller discussed that the original enforcement went out over a year ago; typically, it takes a few months including a restoration plan and getting plants in the ground. This has gone on a long time for a relatively small violation. The Commission has been very accommodating and patient. She noted in the current version (Version 5) of the plan, something that was eliminated by the Commission is added back; and now we are waiting for revised plan waiting for the detail for the retaining wall (which is why we continued in October). You are stating you might not have it for December. It was discussed that there needs to be a line in the sand for the Commission where fines will start to be issued. This needs to be wrapped up so planting can begin in the spring. Agent Miller commented that the restoration plan does not have the typical monitoring window which is 2 growing seasons with 2 annual monitoring reports and a success or survival rate of 75%. That is important in this case because there is not proposed soil being brought in to the site; plants might not survive in the existing gravel. Mr. Phaneuf replied he would add the observation to the plan. N. Socha suggested the split-rail fence and cleaning as needed be done now, and the retaining wall can come in as a separate NOI once the detail is complete. He stated this has gone on too long and needs to end; the Commission agreed.

Attorney Drew Hoyt, stated he felt there was no basis for enforcement as they only remaining item is the detail for the wall; they will come back in December with “no trellis and the detail on the wall.” Agent Miller explained the Commission wants to make it clear that this needs to be wrapped up in December so that OOC’s can be issued and planting can occur in the spring. Continued for a restoration plan revision, site plan revision, and a retaining wall detail.

K. Kearney made a motion to continue NOI #SE69-0923; Anna Ct, 59 to December 13, 2021 sometime after 7:00 p.m., R. Emlen seconded.

Roll Call Vote: 3-0-2 K. Kearney, N. Socha, R. Emlen – in favor. (A. Petronio, J. Sullivan abstained)

NOI #SE69-0936; 100, 108 & 110 Old Fall River Rd (Map 3, Lots 37, 43 & 44)

proposed construction of a commercial building with associated grading within jurisdictional wetland resource areas.

Applicant: Mike Albernaz

Representative: InSite Engineering

Continued from October 18, 2021.

Continued to December 13, 2021.

No testimony was taken. Site visit with Agent Miller is scheduled with the Applicant to discuss next steps.

R. Emlen made a motion to accept the continuance for NOI #SE69-0936; 100, 108 & 110 Old Fall River Road to December 13, 2021 sometime after 7:00 p.m.; J. Sullivan seconded.

Roll Call Vote: 5-0-0 K. Kearney, N. Socha, R. Emlen, A. Petronio, J. Sullivan – in favor.

**NOI # SE69-0928; 0 Burnside Avenue (Brigham Farm 3 Definitive Subdivision)
(Map 35, Lot 20, and Map 36, Lots 2 & 11 as well as Map 38, Portion of Lot 156)**

Proposed construction of roadway, stormwater structures, and utilities associated with proposed 8-lot subdivision within jurisdictional wetland resource areas.

Applicant: Sagar Services, Inc.

Representative: Caputo & Wick, Ltd.

Continued from October 18, 2021.

David Bray, Caputo & Wick represented the applicant and gave an update of the project. Mr. Bray stated that he addressed the peer review comments from Crossman Engineering, the firm retained to perform the peer review. Agent Miller read the final letter from Crossman Engineering which addressed technical review comments with one condition: recommended that the rooftop infiltration systems be relocated to no less than a 100 feet from any private drinking well as recommended in the Massachusetts Private Drinking Well Guidelines. The letter notes that each of the other comments has been addressed. Agent Miller reported that the one rooftop infiltration systems’ comment does not fall within the Conservation Commission’s jurisdiction; it would act to Planning and Board of Health.

Mr. Bray reported that the two wet basins were changed to an infiltration basin and a constructed wetland to remedy the issues. He explained the composition of the constructed wetland.

K. Kearney made a motion to close NOI # SE69-0928; 0 Burnside Avenue (Brigham Farm 3 Definitive Subdivision), N. Socha seconded.

Roll Call Vote: 3-0-2 K. Kearney, N. Socha, R. Emlen – in favor. (A. Petronio, J. Sullivan abstained)

K. Kearney made a motion to approve NOI # SE69-0928; 0 Burnside Avenue (Brigham Farm 3 Definitive Subdivision) under the MA Wetlands Protection Act, N. Socha seconded.

Roll Call Vote: 3-0-2 K. Kearney, N. Socha, R. Emlen – in favor. (A. Petronio, J. Sullivan abstained)

K. Kearney made a motion to approve NOI # SE69-0928; 0 Burnside Avenue (Brigham Farm 3 Definitive Subdivision) under the Seekonk Wetlands Protection Bylaw, N. Socha seconded.
Roll Call Vote: 3-0-2 K. Kearney, N. Socha, R. Emlen – in favor. (A. Petronio, J. Sullivan abstained)

There is a 10-day appeal period from the date of the issuance of the Order of Conditions.

NOI # SE69-0940; 214 & 224 Taunton Ave (Map 20/Lots 470 & 596)

Proposed construction of a 7,420sf automotive dealership and service building & bituminous parking area within jurisdictional wetland resource areas.

Applicant: Car and Van Max, LLC

Representative: J. K. Holmgren Engineering

Agent Miller reported this filing has been withdrawn without prejudice.

J. Sullivan made a motion to close NOI # SE69-0940; 214 & 224 Taunton Ave, A. Petronio seconded.
Roll Call Vote: 5-0-0 K. Kearney, N. Socha, R. Emlen, A. Petronio, J. Sullivan – in favor.

R. Emlen made a motion to accept the request to withdraw without prejudice for NOI # SE69-0940; 214 & 224 Taunton Ave, A. Petronio seconded.
Roll Call Vote: 5-0-0 K. Kearney, N. Socha, R. Emlen, A. Petronio, J. Sullivan – in favor.

ANRAD #SE69-0941; 1530 Fall River Ave (Map 4/ Lot 5)

Verification of field-delineated wetland resource areas.

Applicant: Gary Mello

Representative: LSC Environmental Consulting

Agent Miller read in the filing:

The Conservation Commission, in accordance with Mass. Gen. Law Ch. 131, §40 and the Seekonk Wetland Protection Bylaw, will open a **PUBLIC HEARING** via remote session on **MONDAY, November 15, 2021 after 7:00 p.m. on an Abbreviated Notice of Resource Area Delineation made by Gary Mello at 1530 Fall River Avenue, (AP 4, Lot 5)** for verification of field-delineated wetland resource areas.

Lisa Caledonia, LSC Environmental Consulting represented the applicant. Oracle Homes has requested that the ANRAD be filed for only the southern resource boundary; they do not intend to do anything in the northern portion of the site. The BVW was flagged in July and August; the vernal pools were not flagged as she thought approximate locations would be sufficient. Ms. Caledonia was asked to flag the vernal pools. She reported that Tory Creek runs through this site. The Plan indicates “approximate” location of Torrey Creek and is NOT accurate. Agent Miller believes the stream likely connects to the pond; Ms. Caledonia stated that Mount Hope was not able to find a connection from the river to the wetland which extends to the pond. She will contact Mount Hope to revisit finding the connection. Agent Miller reported that during a rainstorm last week, the flow was easier to see; there is a definite hydrologic connection. USGS maps show Tory Creek as a perennial stream. It will need to show riverfront area on the ANRAD as well. The ponding area is likely an inlet/outlet to Tory creek.

There is a cart path that bisects the wetlands; Ms. Caledonia showed the A Series and B Series of flags on either side. It is a 12-acre site and may constitute redevelopment (existing foundations for greenhouses). She reported she does not know what the plans are for this site. Once flagged, the vernal pools will show a 100’ buffer zone on the plan and a large bold note will be added to the plan stating the ANRAD is for the southern side of the resources only.

Agent Miller explained the importance of getting the ANRAD correct as it is good for three years and it often referenced well beyond that. Ms. Caledonia to flag the river within the wetlands, Mount Hope to mark the hydrologic connection and cart path, and note to be added to the ANRAD Plan.

J. Sullivan made a motion to continue ANRAD #SE69-0941; 1530 Fall River Ave to December 13, 2021 sometime after 7:00 p.m.; A. Petronio seconded.

Roll Call Vote: 5-0-0 K. Kearney, N. Socha, R. Emlen, A. Petronio, J. Sullivan – in favor.

Public Meeting:

Other Business:

A. Petronio made a motion to take discussion with Old Colony Habitat for Humanity out of Agenda order, J. Sullivan seconded.

Roll Call Vote: 5-0-0 K. Kearney, N. Socha, R. Emlen, A. Petronio, J. Sullivan – in favor.

- **Discussion of Lynn Street with Old Colony Habitat for Humanity** for a potential single-family on Lynn Street and possibly a single-family on Morris Street as well.

Tim Travers, President Old Colony, and Kim Thomas, CEO Old Colony was present. Mark Mariano, Oakhill Engineering represented the applicant and stated they are here to get a viability of obtaining a variance to build a structure in the 50' and disturb in the 25'. He showed the flagged wetlands and reported the site was previously farmed and is currently full of brush. He reported that K. Kearney made a site visit with him. Ms. Kearney felt there was some potential for a small house there with a very limited yard area if engineered correctly. Most of the yard would be on the septic area. She stated she would like to see a split-rail fence across the 25' No Touch at minimum. Mr. Mariano asked if it could be moved back for constructability for the house, and then establish it at the 25' after that; Ms. Kearney agreed. She cautioned that any construction should not impact the lower abutting property resulting in flooding during construction. Mr. Mariano spoke to the installation of a swale. Ms. Kearney stated she did not see the chance of a second house adjoining it.

Agent Miller suggested a give and take, and asked if it makes sense with the larger wetland complex to the south to put the split-rail fence inside the 25' No Touch, then adjusting the 25' No Touch midway between the 25' and the 50' on the south side.

Tim Travers, Habitat for Humanity discussed that they had hoped for two houses, one on Lynn Street, and one on Morris Street utilizing the micro lots. Bringing the water over from Lynn to Morris made it financially worthwhile for them. A. Petronio commented that in that scenario, the water would bisect the wetland. Mr. Travers commented that part of the crossing was man made. K. Kearney reported that does not matter as the wetland exists and serves an important purpose for a reservoir for water to percolate through to protect adjoining properties.

A. Petronio commented both projects should be looked at in totality. Mr. Mariano showed both wetlands onsite and offsite. The variance request was discussed; it was determined the site is extremely tight. The possible location of septic systems was discussed. Ms. Kearney commented variances should be minor, they can't take up half the wetland without any replication; and there is no place to replicate here. It was discussed that Lynn seems doable, but Morris does not.

Mr. Travers stated he needed to check with his Board of Directors. Ms. Thomas anticipates a filing for the December agenda.

Agent Miller commented that there are lots out there that may be better suited such as the lot across the street from Morris; the parcel had a filing with us, it has been posted for sale, it is a more sizeable and relatively flat lot, and is still vacant.

Enforcement issues:

- NV 2021-05 & EO 2021-05; 0 Taunton Ave (ratify & update)
Violation and Enforcement Order for disposal of yard waste along slope with wetland at the toe; dumping of baghouse fines into wetland which spills onto Town of Seekonk Property. MassDEP targeted baghouse fines. A restoration plan will be submitted for the December meeting.
A. Petronio made a motion to ratify NV 2021-05 & EO 2021-05, K. Kearney seconded.
Roll Call Vote: 5-0-0 K. Kearney, N. Socha, R. Emlen, A. Petronio, J. Sullivan – in favor.
- NV 2021-06 & EO 2021-06; 0 Pine St [Berson Estates Subdivision] (ratify & update)
Violation and Enforcement Order for improper installation of erosion controls into the No Touch area. A site plan to be submitted for December meeting by InSite showing the area of impact. Mr. DuVally, developer was present and stated he will restore what the Commission orders.
J. Sullivan made a motion to ratify NV 2021-06 & EO 2021-06,
Roll Call Vote: 5-0-0 K. Kearney, N. Socha, R. Emlen, A. Petronio, J. Sullivan – in favor.
- NV 2021-07 & EO 2021-07; 305 Oak Hill Ave (ratify & update)
Violation and Enforcement Order for removal of several large diameter trees and placement of storage containers in the disturbed area. Agent Miller showed historic imagery.
A. Petronio made a motion to ratify NV 2021-07 & EO 2021-07, J. Sullivan seconded.
Roll Call Vote: 5-0-0 K. Kearney, N. Socha, R. Emlen, A. Petronio, J. Sullivan – in favor.

Other Business:

- Discussion & vote regarding CPC representation from Commission.
J. Sullivan made a motion to appoint R. Emlen CPC representative for the Conservation Commission, A. Petronio seconded.
Roll Call Vote: 5-0-0 K. Kearney, N. Socha, R. Emlen, A. Petronio, J. Sullivan – in favor.
- Discuss other topics not reasonably anticipated by the Commission 48 hours before the meeting.
No votes to be taken.
♦Site visit for the Medeiros property was discussed.

Approval of Minutes: August 16, 2021 & October 18, 2021

K. Kearney made a motion to approve the August 16, 2021 minutes, R. Emlen seconded.

Roll Call Vote: 3-0-2 K. Kearney, N. Socha, R. Emlen, A. Petronio, J. Sullivan –
(A. Petronio & J. Sullivan abstained).

J. Sullivan made a motion to approve the October 18, 2021, 2021 minutes, A. Petronio seconded.

Roll Call Vote: 4-0-1 K. Kearney, N. Socha, A. Petronio, J. Sullivan – (R. Emlen abstained).

The meeting was adjourned at 9:44 p.m.

Respectfully submitted,
Kim A. Lallier
Conservation Secretary

Formally accepted on 12/13/2021 5 in favor, 0 against, 0 abstention

Full Video available to view on TV9 Seekonk Community Access Television

Link: <http://tv9seekonk.com/>